



DEPARTMENT OF COMMERCE

**International Trade Administration**

**[A-893-001; A-400-001]**

**Silicon Metal from Bosnia and Herzegovina and Iceland: Final Affirmative Determinations of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances for Iceland**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that imports of silicon metal from Bosnia and Herzegovina (Bosnia) and Iceland are being, or are likely to be, sold in the United States at less than fair value (LTFV) during the period of investigation April 1, 2019, through March 31, 2020.

**DATES:** Applicable [Insert date of publication in the *Federal Register*].

**FOR FURTHER INFORMATION CONTACT:** Brittany Bauer (Bosnia) and Emily Halle (Iceland), AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3860 and (202) 482-0176, respectively.

**SUPPLEMENTARY INFORMATION:**

Background

On December 11, 2020, Commerce published in the *Federal Register* the *Preliminary Determinations* of sales at LTFV relating to imports of silicon metal from Bosnia and Iceland.<sup>1</sup> We invited interested parties to comment on the *Preliminary Determinations*. A summary of the events that occurred since Commerce published the *Preliminary Determinations*, as well as a full

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<sup>1</sup> See *Silicon Metal from Bosnia and Herzegovina and Iceland: Preliminary Affirmative Determinations of Sales at Less Than Fair Value*, 85 FR 80009 (December 11, 2020) (*Preliminary Determinations*), and accompanying Preliminary Decision Memorandum.

discussion of the issues raised by parties for these final determinations, may be found in the Issues and Decision Memoranda.<sup>2</sup>

### Scope of the Investigations

The product covered by these investigations is silicon metal from Bosnia and Iceland. For a full description of the scope of these investigations, *see* the “Scope of the Investigations” in Appendix I of this notice.

### Scope Comments

As stated in the *Preliminary Determinations*, no interested parties commented on the scope of the investigations as it appeared in the *Initiation Notice*.<sup>3</sup> Accordingly, the scope of the investigations remains the same as it appeared in the *Initiation Notice*. *See* Appendix I of this notice.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties in these investigations are addressed in the Issues and Decision Memoranda. Lists of the issues addressed in the Issues and Decision Memoranda are attached to this notice as Appendices II and III. The Issues and Decision Memoranda are public documents and are on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, complete versions of the Issues and Decision Memoranda can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memoranda are identical in content.

### Changes Since the Preliminary Determinations

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<sup>2</sup> *See* Memoranda, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Silicon Metal from Bosnia and Herzegovina,” and “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Silicon Metal from Iceland,” both dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memoranda).

<sup>3</sup> *See Silicon Metal from Bosnia and Herzegovina, Iceland, and Malaysia: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 45177 (July 27, 2020) (*Initiation Notice*); *see also Preliminary Determinations*, 85 FR at 80009.

Based on our analysis of the comments received, we made no changes to the rates assigned in the *Preliminary Determinations*. For further discussion, *see* the Issues and Decision Memoranda.<sup>4</sup>

#### Use of Adverse Facts Available

There is one mandatory respondent in each investigation: R-S Silicon D.O.O. (Bosnia) and PCC Bakki Silicon hf (Iceland). These companies failed to cooperate in the Bosnia and Iceland investigation, respectively. Therefore, in the *Preliminary Determinations*, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), Commerce assigned R-S Silicon D.O.O. and PCC Bakki Silicon hf rates based on adverse facts available (AFA). There is no new information on the record that would cause us to revisit our determinations to apply AFA to these companies. Accordingly, we continue to find that the application of AFA pursuant to sections 776(a) and (b) of the Act is warranted.

#### Final Affirmative Determination of Critical Circumstances for Iceland

In accordance with section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), Commerce preliminarily found that critical circumstances exist with respect to imports of silicon metal exported by PCC Bakki Silicon hf and all other producers/exporters from Iceland.<sup>5</sup> Our determination of critical circumstances is unchanged for the final determination. Accordingly, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206, we continue to find that critical circumstances exist for PCC Bakki Silicon hf and all other producers/exporters from Iceland.

#### All-Others Rate

With respect to Bosnia, as discussed in the *Preliminary Determinations*, Commerce based the selection of the all-others rate on the dumping margin calculated based on a price-to-constructed value comparison provided in the *Initiation Notice*,<sup>6</sup> in accordance with section

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<sup>4</sup> See Issues and Decision Memoranda.

<sup>5</sup> See *Preliminary Determinations*, 85 FR at 80010. Commerce only received a critical circumstances allegation with respect to Iceland.

<sup>6</sup> See *Initiation Notice* and AD Investigation Initiation Checklist: Silicon Metal from Bosnia and Herzegovina, dated July 20, 2020.

735(c)(5)(B) of the Act. We made no changes to the selection of this rate for the final determination.<sup>7</sup>

With respect to Iceland, as discussed in the *Preliminary Determinations*, Commerce based the selection of the all-others rate on the simple average of the price-to-price dumping margins provided in the *Initiation Notice*,<sup>8</sup> in accordance with section 735(c)(5)(B) of the Act. We made no changes to the selection of this rate for the final determination.<sup>9</sup>

#### Final Determinations

The final estimated weighted-average dumping margins are as follows:

<b>Bosnia and Herzegovina</b>	
<b>Exporter/Producer</b>	<b>Dumping Margin (percent)</b>
R-S Silicon D.O.O.	21.41
All Others	21.41

<b>Iceland</b>	
<b>Exporter/Producer</b>	<b>Dumping Margin (percent)</b>
PCC Bakki Silicon hf	47.54
All Others	37.83

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<sup>7</sup> See *Preliminary Determination*, 85 FR at 80010.

<sup>8</sup> See *Initiation Notice* and AD Investigation Initiation Checklist: Silicon Metal from Iceland, dated July 20, 2020.

<sup>9</sup> See *Preliminary Determination*, 85 FR at 80010.

## Disclosure

The estimated dumping margin assigned to the mandatory respondents in these investigations are based on AFA. As we made no changes to these margins since the *Preliminary Determinations*, and because we are relying on rates established in the initiation phase of these proceedings, no disclosure of calculations is necessary for these final determinations.

## Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, for the final determination for Bosnia, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of silicon metal, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after December 11, 2020, the date of publication in the *Federal Register* of the affirmative *Preliminary Determinations*.

In accordance with section 733(e)(2)(A) of the Act, suspension of liquidation of silicon metal from Iceland, as described in the “Scope of the Investigations” in Appendix I, shall continue to apply to unliquidated entries of silicon metal exported by PCC Bakki and all other producers/exporters from Iceland that entered, or were withdrawn from warehouse, for consumption on or after September 12, 2020, which is 90 days prior to the date of publication of the *Preliminary Determinations*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin as follows: (1) the cash deposit rate for the companies listed in the table above will be equal to the company-specific estimated weighted-average dumping margin identified for each company in the table; (2) if the exporter is not a company identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and

(3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These suspension of liquidation instructions will remain in effect until further notice.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determinations of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determinations as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of silicon metal from Bosnia and Iceland no later than 45 days after these final determinations. If the ITC determines that such injury does not exist, these proceedings will be terminated, and all cash deposits will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue antidumping duty orders directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

#### Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These determinations are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: February 22, 2021.

James Maeder,  
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

## **Appendix I**

### **Scope of the Investigations**

The scope of these investigations covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these investigations.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While the HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.



## **Appendix II**

### **List of Topics Discussed in the Bosnia Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Discussion of the Issue  
Comment: Whether Commerce Should Assign the Highest Original Petition Margin as  
Adverse Facts Available
- IV. Recommendation

## **Appendix III**

### **List of Topics Discussed in the Iceland Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Final Affirmative Determination of Critical Circumstances
- IV. Discussion of the Issue  
Comment: Whether Commerce Should Apply the Highest Petition Margin as Adverse  
Facts Available
- V. Recommendation

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